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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

In re A.T., a Person Coming
Under the Juvenile Court
Law.

B300263

(Los Angeles County
Super. Ct. No. 19CCJP03618)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

ELLIOT T.,

Defendant and Appellant.

APPEAL from order of the Superior Court of Los Angeles
County, Lisa A. Brackelmanns, Juvenile Court Referee.
Affirmed.

Elizabeth C. Alexander, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and David Michael Miller, Deputy
County Counsel for Plaintiff and Respondent.

INTRODUCTION

Elliot T. (Father) appeals from the juvenile court's jurisdiction findings under Welfare and Institutions Code¹ section 300, subdivisions (a) and (b)(1), and the disposition order removing A.T. from his physical custody under section 361, subdivision (c)(1). Father contends there was insufficient evidence to support the jurisdiction findings and removal order. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Jaqueline H. (Mother) and Father married in 2017. In April 2018, Mother gave birth to A.T. The family relocated from Dubai to California in late 2018.

A. *May 2019 Incidents and the Department's Investigation*

On May 8, 2019, the Los Angeles County Department of Children and Family Services (Department) received a referral alleging emotional and physical abuse and general neglect of A.T. Mother reported to the police that she and Father had an argument on May 6, 2019. When Mother told Father “she did not want to talk,” Father stated to Mother, “this is why I blow up.” Father “became angry” and “pushed [Mother], call[ing] her a bitch” and a “dumb whore.” Father “continued to call [Mother] a bitch” and a “whore,” and Father slapped Mother's head and “kicked her on her legs with his right foot.” When Mother “attempted to leave the room,” Father “closed the door and placed [A.T.'s] crib in front of the door to prevent [Mother] from leaving”

¹ Undesignated statutory references are to the Welfare and Institutions Code.

the bedroom. A.T. was in the crib. According to Mother, Father told her “the only way she would be able to leave was if he was dead.” For the “next few hours,” Father continued to “yell” at and “push” Mother. During this time, Mother did not speak because she knew it would make Father angrier. “Later that evening, [Father] began to yell at [Mother] again,” hitting Mother in the face with a pillow. Mother told the police: “[Father] placed his hand around the front of her neck and squeezed making it so [she] ‘couldn’t breathe.’ [Mother] stated that [Father] ‘strangled’ her. She stated she never lost consciousness.” A.T. was in the room with Father and Mother throughout these incidents. The police observed “faint bruising” on Mother’s “right shin and the front of her neck.” Although Mother declined an emergency protective order against Father, Mother stated that “she was desirous of prosecuting” Father. On May 7, the police arrested Father and charged him with willful infliction of corporal injury on a spouse or cohabitant (Pen. Code, § 273.5).

Mother told the police “that there have been approximately twenty previous [occasions] where [Father] has assaulted her.” Mother stated that, while she was pregnant in Dubai, “he pushed me, he dragged me by my hair, he kicked me.” Mother added that she “sustained bruises during that incident, and she filed a report with law enforcement in Dubai.”

During an unannounced May 9 visit to the family home, Mother told the Department that she and Father got into an “only verbal” argument on May 5, “but the incident on [May 6] was verbal and physical.” Mother stated that Father “lost his mind.” “[F]ather pushed her head, kicked her right shin, hit her with a pillow on her head, and choked her.” The social worker observed “a faint bruise on [Mother’s] neck.” Mother reported

that on May 7, she and Father had another argument. Father again refused to allow Mother to leave the home. Mother told her friend to call the police because “she felt she had to do it to scare [Father].” Mother also told the social worker that “there has been more than 20 other incidents” when Father had been “physical with her” during their three-year relationship. “Mother stated that [F]ather has pushed her and pulled her hair.” Mother also reported that she had been “physical with [Father] as well to defend herself.” Consistent with her report to the police, Mother told the social worker about the domestic violence incident in Dubai.

Mother stated that Father “[was] not a bad person” and that he “[was] a good husband and dad.” Mother also expressed that “she feels safe with [F]ather” and that “she needs him.” Mother is from Brazil and does not have any family in America. Mother claimed that “[F]ather only has anger issues and was abused as a child” and that Father had been “stressed due to losing a lot of money with his business.” Mother wished to do couples therapy with Father. Mother and Father resumed living together after Father’s release from jail after his May 7 arrest.

During his May 9 interview with the Department, Father reported that he and Mother had an argument “due to both parents being stressed from lack of sleep and [M]other’s hormones.” Father claimed, “[M]other usually start[ed] the arguments.” Father reported that he was working 16-hour days and that “[M]other want[ed] attention from him.” Father added that he was “stressed out due to financial issues in Dubai.” “Father stated that [M]other feels like a tourist and has not been working since moving to America.” Father reported, Mother “was stressed from not having any friends or support. Father stated

that there [was] a lot of pressure on [M]other which affects her judgment.” Father added that “he told [M]other to join a mom support group.”

Father denied slapping or kicking Mother. However, he “did not want to make any further statements regarding the May 6 and 7 incidents.” He declined to comment when asked “if [M]other had been physical with him.” Father claimed that a friend had “peer pressured” Mother into calling the police and that “this was the first time law enforcement had been called to the home.” Father stated, “[H]e want[ed] to ‘squash the beef’ and move forward.” When asked about the domestic violence incident in Dubai while Mother was pregnant, Father responded: “[M]other had gotten in his face and threw stuff in the home,” and Mother had “told him that she went to the police in Dubai.” Father told the Department that he loved Mother, he and Mother had “communication issues,” and they needed to work on themselves. Father also reported that “he will start anger management classes and want[ed] to do couples therapy with [M]other.”

The social worker observed that A.T. was appropriately groomed and dressed and developmentally age appropriate. She was also comfortable in her home environment. The social worker did not observe any visible marks or bruises on A.T. Mother stated A.T. was healthy and had no medical issues. Mother sent the social worker emails on May 12 and 14 advising that she and Father had enrolled in anger management classes. Mother also forwarded paperwork regarding Father’s anger management, domestic violence, and parenting “online” courses.

On June 3, 2019, the juvenile court issued an order detaining A.T. from Father. After the Department and sheriff’s

deputies served the order, Father agreed to vacate the family home. On June 6, Mother informed the Department that she and A.T. were living in paternal grandmother's home, while Father remained in the family home.

B. *Dependency Petition and Detention Hearing*

The Department filed a petition on June 7, 2019 alleging juvenile court jurisdiction over A.T. pursuant to section 300, subdivisions (a) and (b)(1). The petition alleged Father's violent conduct towards Mother and Mother's failure to protect A.T. from Father endangered A.T.'s health and safety and placed her at risk of serious physical harm. The petition described the May 6 and May 7 incidents as well as the prior domestic violence Mother recounted to the police and the Department. The Department recommended that the juvenile court detain A.T. from Father and place her in Mother's custody under the Department's supervision.

At the June 10, 2019 detention hearing, Mother and Father entered denial pleas. A.T.'s counsel joined with the Department in arguing that the juvenile court should sustain the petition under section 300, subdivisions (a) and (b)(1). A.T.'s counsel argued, "There was some pretty serious [domestic violence] that involved Mother being strangled, which is very concerning. There's also a long history here." Father's counsel requested that the juvenile court order A.T. released to both parents on the condition that Mother and Father reside separately. Alternatively, if the juvenile court detained A.T. from Father, Father's counsel requested that the juvenile court order unmonitored visits for Father.

The juvenile court found a prima facie case for detaining A.T. from Father and finding A.T. was a person described by

section 300. The juvenile court placed A.T. with Mother. The juvenile court ruled: “I think both parents are on the right track in immediately engaging in counseling prior to today’s date. But because of the very concerning domestic violence incident that only happened a month ago, I am going to detain from Father with monitored visits . . . I am going to allow [A.T.] to be residing with the Mother. . . . But as to the Father, . . . there’s a substantial danger to the physical and emotional health of [A.T.], and there are not reasonable means by which [A.T.’s] physical and emotional health may be protected without removing the child from the home of the Father and the care, custody, and control of the Father. . . The court further finds it would be detrimental to [A.T.] to be placed in the home of the Father and that continuance in the home would be contrary to [A.T.’s] welfare.” The juvenile court ordered family preservation services, domestic violence counseling, parenting classes and monitored visits for Father and domestic violence support group, parenting classes, and domestic violence counseling for Mother. The juvenile court scheduled the jurisdiction and disposition hearing for August 20, 2019.

C. *Jurisdiction/Disposition Hearing*

1. *The Department’s Jurisdiction and Disposition Report*

During her August 7 interview, Mother “minimized” Father’s abuse and her failure to protect A.T., claiming that it was only a “one-time thing” and that it “won’t happen again.” Regarding the petition’s allegations, Mother stated, “It looks a lot worse than it is. I was really stressed when I called the police.” When asked if there had been prior domestic violence incidents, Mother responded that “[t]here were none.” When reminded that

she had previously told the police and the Department that there had been 20 domestic violence incidents, Mother replied, “I made the number 20 up. There was nothing physical.” According to Mother, Father had just called her “a bitch and a whore” and “pulled [her] hair.” In describing Father’s physical violence towards her on May 6 and 7, Mother stated: “He slapped, pushed my head like to say, ‘why are you so stubborn?’ He was like pushing my head, not slap slap. He did hit me with a pillow. When he kicked my leg, it was over the blankets and it was not like a kick kick. There were no marks . . . at all on my legs.” When asked about Father choking her, after stating “[F]ather pushed me by my neck,” Mother said she meant “[s]trangle.” Mother stated she did “[n]ot really” have difficulty breathing.

Regarding the May 6 incident involving A.T.’s crib, Mother responded: “He just didn’t want me to leave. He pushed the crib to the door. . . . I want you to know that [A.T.] was asleep the whole time. She was in the crib.” . . . [B]ut he placed the crib nicely, he didn’t push it. By the way, the crib stays near the door anyway.” When asked whether Father had ever been physical towards her before May 2019, Mother replied, “Only in Dubai, but that was something just very little.” Mother insisted that A.T. was “not in danger” because Father had never hurt A.T. Mother also insisted she had contributed to the May 6 and 7 incidents because it “was her fault when he wants to talk and I don’t want to.” Mother stated, “He’s such a great dad. He’s not what you think. He’s not the person he appears to be.” Mother reported that after Father’s release from jail: “Things were so perfect. We were living together for a month and everything was fine.”

Mother told the Department that she was “completely isolated” living at paternal grandmother’s home. Paternal grandmother was “very controlling.” She had installed two cameras in each room and monitored all of Mother’s activities. Paternal grandmother also refused to allow Mother to turn on the air-conditioner when A.T. was napping. Father’s brother also lived in the home, and often argued with paternal grandmother. Paternal grandmother repeatedly told Mother that “she can’t sell her house as planned while [Mother and A.T. were living] here.” When the Department asked why Mother cannot move into her home and Father move into paternal grandmother’s house, Mother stated: “[Father] wants to stay in the house.” Mother reported that she “would like to leave” paternal grandmother’s home and had “called a few shelters.”

In a telephone call with the Department, Father stated, “This is a complete misunderstanding. I think when you talk to my wife you will see.” Father told the Department that “he would need to speak with his attorney” before agreeing to an interview with the Department. Father did not respond to the Department’s further requests to meet with him. The Department reported that Father had only visited A.T. twice because “he [was] very busy with his work.”

The Department reported that Mother and Father lacked insight regarding the risks their domestic violence cycle posed to A.T. The Department concluded: “Mother and [F]ather’s conduct endangers the physical and emotional wellbeing of [A.T.] such that [A.T. was] at risk of suffering emotional or physical harm. [A.T.] is of such a tender age and needs to remain detained from [Father], and released to [Mother] with services in place in order to ensure [A.T.’s] safety and to protect [A.T.] from the

endangering or detrimental conduct of the parents.”

2. *August 20, 2019 Hearing*

Mother’s counsel argued that the evidence only supported sustaining the petition under section 300, subdivision (b), and not under subdivision (a), “because [although A.T.] was in the crib, [that] does not mean she was at risk of a substantial risk of . . . suffering physical harm.”² Arguing “there was nothing violent about the action[s] of [Father] that would have endangered the child,” Father’s counsel stated, should the court be “inclined to sustain something” against Father, it “merely” sustain the petition under section 300, subdivision (b). The Department argued, “Not only was [A.T.] present, she was in the crib and the Father used the crib to block the door so the Mother couldn’t get out and [Father] told the Mother the only way you’re getting out of here [was if Father] was dead. . . . That [was] a very violent situation. This [occurred] after the Father had pushed her, had attempted to strangle her. . . . [Father] was not in a right state of mind. So to say he’s doing all of these things to the Mother, telling her the only way you’re going to leave this room [was] if I’m dead, then calmly move the crib in front of the door, I don’t find that to be logical, whatsoever. . . . This falls directly under [section 300, subdivision (a)]. [A.T.] was definitely at substantial risk of serious physical harm inflicted by this Father.” A.T.’s counsel also argued that the juvenile court should sustain the petition under section 300, subdivisions (a) and (b)(1).

² After the parties agreed to strike references to Father’s May 2019 arrest and Mother’s contact with law enforcement in Dubai, the Department filed an amended petition reflecting these deletions.

The juvenile court found: “These facts are very disturbing and alarming. I think that it’s . . . very fortunate that [A.T.] was not seriously injured in this incident since, literally the crib, [A.T.] was in it. It was being used as part of the domestic violence incident. So the court is going to sustain [under section 300, subdivision (a)] . . . I do believe the Department has shown, by a preponderance of the evidence, that the Mother and [Father], have had a long history of domestic violence, dating back to when she was pregnant and that she was very much aware of his issues with anger and domestic violence and failed to protect. So the court is going to sustain [under section 300 subdivision (b)(1)], as well as amended.” The court approved case plans requiring Mother to participate in a domestic violence support group and Father to participate in domestic violence group counseling for perpetrators. The juvenile court also ordered Mother and Father to participate in age-appropriate parenting classes, individual counseling, and conjoint counseling when appropriate. Father did not attend the hearing.

Father timely appealed.³

³ Because Mother did not appeal the juvenile court’s jurisdiction order and Father does not challenge the jurisdiction findings involving Mother, A.T. will remain a dependent of the juvenile court regardless of the outcome of Father’s appeal. (*In re Briana V.* (2005) 236 Cal.App.4th 297, 308 [“[a] jurisdictional finding good against one parent is good against both. More accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a dependent.”].) We nevertheless exercise our discretion and reach the merits of Father’s challenges to the jurisdiction findings because those findings “serve[d] as the basis for the

DISCUSSION

A. *Applicable Law and Standard of Review*

“At the first stage of dependency proceedings, the juvenile court determines whether the child is subject to juvenile court jurisdiction; [the Department] has the burden to prove jurisdiction by a preponderance of the evidence.” (*In re Yolanda L.* (2017) 7 Cal.App.5th 987, 992.) “At the second stage, the juvenile court must decide where the child will live while under juvenile court supervision; to support removal from parental custody, [the Department] has the burden to prove by clear and convincing evidence that there is a risk of substantial harm to the child if returned home and the lack of reasonable means short of removal to protect the child’s safety.” (*Ibid.*; see § 361, subd. (c); *In re D.P.* (2020) 44 Cal.App.5th 1058, 1068; *In re D.C.* (2015) 243 Cal.App.4th 41, 51, 54.)

We review challenges to the sufficiency of the evidence underlying jurisdiction findings and disposition orders for substantial evidence. (*In re Yolanda L.*, *supra*, 7 Cal.App.5th at p. 992; see *In re I.J.* (2013) 56 Cal.4th 766, 773.) ““In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations; and we note that issues of fact and credibility are the province of the trial court.” [Citation.] “We do not reweigh the evidence or exercise independent judgment, but

dispositional orders” removing A.T. from Father’s physical custody. (*In re D.P.* (2015) 237 Cal.App.4th 911, 917; accord, *In re Madison S.* (2017) 15 Cal.App.5th 308, 329; *In re J.C.* (2014) 233 Cal.App.4th 1, 4; *In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.)

merely determine if there are sufficient facts to support the findings of the trial court.”” (*Ibid*; accord, *In re S.R.* (2020) 48 Cal.App.5th 204, 219.)

“Substantial evidence is evidence that is “reasonable, credible, and of solid value”; such that a reasonable trier of fact could make such findings.” (*In re L.W.* (2019) 32 Cal.App.5th 840, 848; accord, *In re D.C.*, *supra*, 243 Cal.App.4th at p. 52.) “But substantial evidence “is not synonymous with any evidence. [Citations.] A decision supported by a mere scintilla of evidence need not be affirmed on appeal.”” (*In re Joaquin C.* (2017) 15 Cal.App.5th 537, 560.) ““Inferences may constitute substantial evidence, but they must be the product of logic and reason. Speculation or conjecture alone is not substantial evidence.”” (*Patricia W. v. Superior Court* (2016) 244 Cal.App.4th 397, 420; see *In re Donovan L.* (2016) 244 Cal.App.4th 1075, 1093 [a “juvenile court’s conclusion ‘supported by little more than speculation’ [is] not based on substantial evidence”].)

“When reviewing a finding that a fact has been proved by clear and convincing evidence, the question before the appellate court is whether the record as a whole contains substantial evidence from which a reasonable factfinder could have found it highly probable that the fact was true.” (*Conservatorship of O.B.* (2020) 9 Cal.5th 989, 1011 (*O.B.*).) “The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the findings or orders.” (*In re E.E.* (2020) 49 Cal.App.5th 195, 206; accord, *In re D.B.* (2018) 26 Cal.App.5th 320, 328-329; *In re D.C.*, *supra*, 243 Cal.App.4th at p. 52; *In re A.E.* (2014) 228 Cal.App.4th 820, 826.)

B. *Substantial Evidence Supported Jurisdiction Under Section 300, Subdivision (a)*

Section 300, subdivision (a), provides for juvenile court jurisdiction when a “child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child’s parent or guardian.” In deciding whether there is a substantial risk of serious physical harm to a child, “courts evaluate the risk that is present at the time of the adjudication hearing. ‘While evidence of past conduct may be probative of current conditions, the question under section 300 is whether circumstances *at the time of the hearing* subject the minor to the defined risk of harm.’” (*In re Roger S.* (2018) 31 Cal.App.5th 572, 582; see *In re J.M.* (2019) 40 Cal.App.5th 913, 921 [“[w]here jurisdictional allegations are based solely on risk to the child, and not on past injury, a juvenile court ordinarily determines whether a substantial risk of harm exists at the time of the jurisdiction hearing”].) “To establish a defined risk of harm at the time of the hearing, there ‘must be some reason beyond mere speculation to believe the alleged conduct will recur.’” (*In re D.L.* (2018) 22 Cal.App.5th 1142, 1146.)

Under limited circumstances, incidents of domestic violence between a child’s parents may support a jurisdiction finding under section 300, subdivision (a). (See *In re M.M.* (2015) 240 Cal.App.4th 703, 720 [subdivision (a) jurisdiction supported when “father was actually holding minor while mother was hitting father and while father was choking mother . . . mother hit father while he was holding minor”].) However, the somewhat more common potential for accidental injury during parents’ physically violent fights in the presence of bystander children constitutes a

failure or inability to protect the child, creating the potential for dependency jurisdiction under section 300, subdivision (b)(1) (and possibly section 300, subdivision (c), as well), but not subdivision (a). (See *In re Giovanni F.* (2010) 184 Cal.App.4th 594, 599 [“many cases based on exposure to domestic violence are filed under section 300, subdivision (b)”]; *In re T.V.* (2013) 217 Cal.App.4th 126, 134 [“[e]xposing children to recurring domestic violence may be sufficient to establish jurisdiction under section 300, subdivision (b)”]; *In re Daisy H.* (2011) 192 Cal.App.4th 713, 717 [same].)

Here, during an extended and violent episode on May 6, 2019, with A.T. in her crib, Father moved the crib against the bedroom door to prevent Mother from exiting the bedroom. Father told Mother the “only way she would be able to leave was if [Father] was dead.” Father “continued to yell and push [Mother] for ‘the next few hours.’” Mother described Father as having “lost his mind.” By using A.T. to block Mother’s escape, Father placed A.T. at “substantial risk” of suffering “serious physical harm.” In A.T.’s presence, Father’s physical violence against Mother continued during the evening on May 6. Describing Father’s conduct as “very disturbing and alarming,” the juvenile court reasonably found that it was “very fortunate that [A.T.] was not seriously injured in this incident since, literally the crib, [while] the child was in it . . . was being used as part of the domestic violence incident.”

Based on its finding of “a long history of domestic violence,” the juvenile court could have reasonably concluded that Father’s violence would continue. Father physically assaulted Mother on more than 20 occasions during their three-year relationship, including while she was pregnant. In the May 2019 episode,

after hitting Mother in the face, Father “strangled” Mother. “A parent’s past conduct is a good predictor of future behavior.” (*In re T.V.*, *supra*, 217 Cal.App.4th at p. 133; see *In re E.G.* (2010) 184 Cal.App.4th 568, 576 [“Father’s past violent behavior toward Mother is an ongoing concern. . . . ‘the use of force will reoccur in 63% of those relationships’”], disapproved on other grounds in *O.B.*, *supra*, 9 Cal.5th at p. 1010, fn. 7.)

Father’s denials that he struck Mother and Mother’s willingness to recant also indicated the violence was likely to continue. “A parent’s denial of domestic violence increases the risk of it recurring.” (*In re V.L.* (2020) 54 Cal.App.5th 147, 156; accord, *In re Giovanni F.*, *supra*, 184 Cal.App.4th at p. 601; see generally *In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197 [“She continued the same denials. One cannot correct a problem one fails to acknowledge”].) Calling the May 6 and 7 incidents “a complete misunderstanding,” Father claimed Mother “usually started the arguments” and blamed “[M]other’s hormones.” Mother substantially recanted her statements to the police and the Department about the extent and nature of the Father’s assaults. After Mother refused an emergency protective order, Father moved back into the family home after his release from jail. Given Father’s use of A.T. “as part of the domestic violence,” substantial evidence supported the juvenile court’s jurisdiction finding under section 300, subdivision (a).

Father argues that the “section 300, subdivision (a) true finding, must be reversed” because the language of section 300, subdivision (a), “is clear that to find substantial risk of serious future injury, there must be an injury to the child to begin with.” We review this legal challenge *de novo*. (*In re Marquis H.* (2013) 212 Cal.App.4th 718, 725; *In re Lana S.* (2012) 207 Cal.App.4th

94, 108; *In re R.D.* (2008) 163 Cal.App.4th 679, 686.)

Father's reliance on the statutory language is misplaced. Section 300, subdivision (a), provides for dependency jurisdiction when "there is a substantial risk that the child will suffer" physical harm "inflicted nonaccidentally" by the parent. Subdivision (a) provides that "a court *may* find there is a substantial risk of serious future injury" based on "less serious injur[ies]" or "a history of repeated inflictions of injuries."⁴ (Italics added.) However, subdivision (a) lists possible ways to establish "substantial risk"; it does not purport to be exhaustive, as Father argues. (*In re Marquis H.*, *supra*, 212 Cal.App.4th at p. 725.) When a parent, as here, directly involves the child in the domestic violence, the child may be "at substantial risk of suffering serious physical harm," although the violence was directed at a spouse or cohabitant. (*In re M.M.*, *supra*, 240 Cal.App.4th at pp. 720-721; see also *In re Giovanni F.*, *supra*, 184 Cal.App.4th at pp. 600-601.) Here, Father substantially endangered A.T. by using her to block Mother's escape during his violent attack on Mother, and there was a strong probability the domestic violence would reoccur. These extreme facts supported jurisdiction under subdivision (a).

⁴ Section 300, subdivision (a), provides: "For purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm."

C. *Substantial Evidence Supported Jurisdiction Under Section 300, Subdivision (b)(1)*

Father contends, “there is insufficient evidence supporting the true finding under subdivision (b)(1), because the evidence shows the domestic violence between the parents never directly harmed [A.T.] or put her at risk and, due to engagement in services the evidence showed the domestic violence was unlikely to continue.” Section 300, subdivision (b)(1), provides for juvenile court jurisdiction when a “child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of [the] parent . . . to adequately supervise or protect the child, or . . . to provide regular care for the child due to the parent’s or guardian’s mental illness” “The juvenile court need not find ‘that a parent is at fault or blameworthy for her failure or inability to supervise or protect her child.’” (*In re D.L.*, *supra*, 22 Cal.App.5th at p. 1146; see *In re R.T.* (2017) 3 Cal.5th 622, 624.)

“Physical violence between a child’s parents may support the exercise of jurisdiction under [section 300,] subdivision (b) but only if there is evidence that the violence is ongoing or likely to continue and that it directly harmed the child physically or placed the child at risk of physical harm.” (*In re Daisy H.*, *supra*, 192 Cal.App.4th at p. 717; accord, *In re M.W.* (2015) 238 Cal.App.4th 1444, 1453.) “A parent’s “[p]ast conduct may be probative of current conditions” if there is reason to believe that the conduct will continue.” (*In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1384.)

As stated, substantial evidence supported the juvenile court’s finding that A.T. was at a substantial risk of future physical harm at the time of the jurisdiction hearing. The

juvenile court reasonably found that Mother and Father “had a long history of domestic violence, dating back to when [Mother] was pregnant.” Over the course of two days in early May, Father yelled and cursed at, slapped, kicked, and strangled Mother. After he was released from jail, Father moved back into the family home with Mother and A.T. Mother and Father demonstrated lack of insight as to how their domestic violence cycle placed A.T. at a substantial risk of serious harm. Based on the history of violence and their current behavior, the juvenile court could have reasonably inferred that there was little prospect that the cycle of violence would end. “Even if a child suffers no physical harm due to domestic violence, a ‘cycle of violence between . . . parents constitute[s] a failure to protect [a child] ‘from the substantial risk of encountering the violence and suffering serious physical harm or illness from it.’” (*In re V.L.*, *supra*, 54 Cal.App.5th at p. 156; see *In re Heather A.* (1996) 52 Cal.App.4th 183, 194 [“[i]t is clear to this court that domestic violence in the same household where children are living is neglect; it is a failure to protect”].)

Substantial evidence supported the juvenile’s jurisdiction finding under section 300, subdivision (b).

D. *Substantial Evidence Supported Removal*

“At the dispositional hearing, a dependent child may not be taken from the physical custody of the parent under section 361 unless the court finds there is clear and convincing evidence there is or would be a substantial danger to the child’s physical health, safety, protection, or physical or emotional well-being if returned home, and that there are no reasonable means to protect the child’s physical health without removing the child.” (*In re D.P.* (2020) 44 Cal.App.5th 1058, 1065; accord, *In re G.C.*

(2020) 48 Cal.App.5th 257, 265; see § 361, subd. (c)(1).) The juvenile court must determine “whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home” and “shall state the facts on which the decision to remove the minor is based.” (§ 361, subd. (e).)

“In determining whether a child may be safely maintained in the parent’s physical custody, the juvenile court may consider the parent’s past conduct and current circumstances, and the parent’s response to the conditions that gave rise to juvenile court intervention.” (*In re D.B.*, *supra*, 26 Cal.App.5th at p. 332; accord, *In re N.M.* (2011) 197 Cal.App.4th 159, 170.) “A removal order is proper if based on proof of parental inability to provide proper care for the child and proof of a potential detriment to the child if he or she remains with the parent. [Citation.] ‘The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.’” (*N.M.*, at pp. 169-170; accord, *D.B.*, at p. 328.) We review the entire record to determine whether the removal order is supported by substantial evidence. (*O.B.*, *supra*, 9 Cal.5th at p. 1011; *D.B.*, at pp. 328-329.)

The same evidence that supported the juvenile court’s jurisdiction findings may also support the court’s removal order. (§ 361, subd. (c)(1) [the jurisdictional findings are “prima facie evidence” that the child cannot safely remain in the home]; *In re T.V.*, *supra*, 217 Cal.App.4th at p. 135 [same].) Despite Father’s enrollment in “online” domestic violence and anger management courses, Father denied physically harming Mother and blamed Mother for their arguments, indicating that he is unwilling to admit his role in the cycle of domestic violence. Father also minimized the May 6 and 7 domestic violence incidents, telling

the Department, “This is a complete misunderstanding.” Given Father’s refusal to accept responsibility for his conduct, the domestic violence was likely to continue. (*In re V.L.*, *supra*, 54 Cal.App.5th at p. 156; *In re Giovanni F.*, *supra*, 184 Cal.App.4th at p. 601.) There was substantial evidence from which a reasonable trier of fact could have found it highly probable there was a substantial risk of physical harm to A.T. if she was returned home to Father and there were no reasonable alternatives to removal. (*O.B.*, *supra*, 9 Cal.5th at p. 1011.) The juvenile court did not err in removing A.T. from Father’s custody.

DISPOSITION

The juvenile court’s August 20, 2019 orders are affirmed.

DILLON, J.*

We concur:

PERLUSS, P. J.

FEUER, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.